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SALLIE MAE, INC.

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10

11 ANNISA MAYER,

12 Plaintiff,

13 vs.

14 SALLIE MAE,

15 Defendant.

Case No. 08 CV 0853IEG AJB

DEFENDANT SALLIE MAE, INC'S NOTICE
OF MOTION AND MOTION TO DISMISS
PLAINTIFF'S COMPLAINT FOR DAMAGES
PURSUANT TO FED. R. CIV. P. 12(b)(6)

[NO ORAL ARGUMENT PURSUANT TO
LOCAL RULE]

Hearing Date: October 14, 2008
Time: 10:30 a.m.
Courtroom: One

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19 TO THE HONORABLE IRMA E. GONZALES, JUDGE PRESIDING, PLAINTIFF ANNISA
20 MAYER AND HER ATTORNEYS OF RECORD:

21 PLEASE TAKE NOTICE that on October 14, 2008 at 10:30 a.m., or as soon thereafter as
22 counsel may be heard in courtroom one of the above-entitled Court, located at 940 Front Street,
23 San Diego, California 92101, Defendant Sallie Mae, Inc. ("Sallie Mae"), will and does hereby
24 move this Court for an Order dismissing Plaintiff Annisa Mayer's ("Mayer") Complaint for
25 Damages against Defendant Sallie Mae.

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27 Defendant Sallie Mae requests that this Court grant its Motion to Dismiss Plaintiff
28 Mayer's Complaint for Damages pursuant to Fed.R.Civ.P. 12(b)(6), and dismiss the claims filed

1 by Plaintiff Mayer on the grounds that:

2 1. Plaintiff Mayer's First Count, alleging that Defendant Sallie Mae has violated the
3 Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et. seq. ("FDCPA"), and is therefore liable
4 to Plaintiff Mayer for damages, fails to set forth a claim upon which relief can be granted
5 because Defendant Sallie Mae is not a "debt collector" within the meaning of the FDCPA.
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7 2. Plaintiff Mayer's Second Count, alleging that Defendant Sallie Mae has violated
8 the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §§ 1788 – 1788.32 ("California
9 Rosenthal Act"), and is therefore liable to Plaintiff Mayer for damages, fails to set forth a claim
10 upon which relief can be granted because the alleged actions of the Sallie Mae, if true, are
11 absolutely privileged pursuant to Cal. Civ. Code § 47(b). *Rusheen v. Cohen*, 37 Cal.4th 1048,
12 1058.

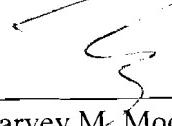
13 3. Count II fails to state a claim upon which relief can be granted because Plaintiff
14 resided in Los Angeles County at the time the Loans were made and the Loans were made in Los
15 Angeles County.
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18 Defendant Sallie Mae's Motion is based on this Notice of Motion and Motion, the
19 accompanying Memorandum of Points and Authorities and Declaration of James M. Austin, the
20 pleadings and papers on file herein and upon such other matters as may be presented to this Court
21 at or before the hearing on the Motion.
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24 No oral argument will be heard in this matter, unless requested by the Court.
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1 Dated: August 4, 2008
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The Moore Law Group, APC

By: 

Harvey M. Moore
Attorney for Defendant